

A RESOLUTION

00- R -1940

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE  
SETTLEMENT OF THE CLAIM OF  
PENELOPE DEWBERRY IN THE AMOUNT  
OF \$12,923.15 AGAINST THE CITY OF  
ATLANTA ARISING FROM SEVERAL  
SEWER BACK UPS.**

**WHEREAS**, PENELOPE DEWBERRY has filed a claim against the City of Atlanta seeking damages arising out of several sanitary sewer back ups to her property located at 2207 Delano Drive, NE, Atlanta, Georgia; and

**WHEREAS**, property owned by PENELOPE DEWBERRY has been damaged due to sewer back ups and sewer overflows due to the blockage of the mainline. This blockage is due to an accumulation of grease, sludge and roots which the City had knowledge of prior to the back up which occurred on April 8, April 15, April 30, May 7, June 12 and July 7, 1998 specifically; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and made several attempts, however unsuccessful, to abate said nuisance; and

**WHEREAS**, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS**, the claimant has asserted damages in the amount of \$50,000.00 and has agreed to accept \$12,923.15 in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of PENELOPE DEWBERRY, be settled for the sum of \$12,923.15.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$12,923.15 be paid by the City of Atlanta to PENELOPE DEWBERRY, in satisfaction of any and all claims she may have stemming from damages sustained to her property on or about April 8, April 15, April 30, May 7, June 12 and July 7, 1998, at 2207 Delano Drive, NE, and that the City Attorney prepare appropriate releases.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0736

Date: November 16, 2000

Claimant /Victim PENELOPE DEWBERRY  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 2207 Delano Drive, NE, Atlanta, Georgia 30317  
Subrogation: Claim for Property damage \$ 50,000.00 Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 9/18/98 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 4/8/98, 4/15/98, 4/30/98, 5/7/98, 6/12/98, 7/7/98 Place: 2207 Delano Drive, NE  
Department PUBLIC WORKS Division Sewer Operations  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: Claimant sustained property damages to her residence from several sanitary sewer back ups. An investigation determined that Claimant's back ups continued for some length of time and the City was on notice of said sewer problems, but failed to permanently correct them.

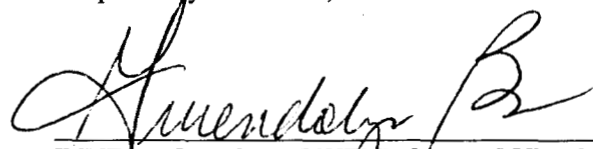
INVESTIGATION:

Statements: City employee X Claimant X Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other X  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

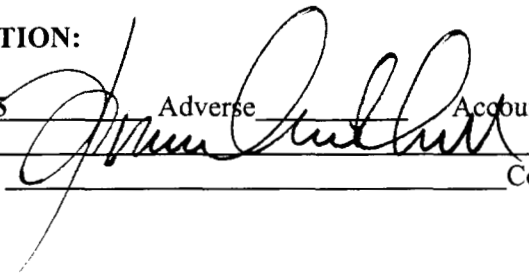
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement X  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 12,923.15 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 11-17-00  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

COUNCIL OF THE CITY OF ATLANTA  
MUNICIPAL CLERK  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 15 September 98

ENTERED - 11-6-98 - SB  
98L0736 - GWEN BURNS

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 50,000.00 property and/or \$ \_\_\_\_\_ bodily injury for which I contend the City is liable.

1. Date of incident: \* MAR 26, 98 2. Time of Incident: 7:11 PM 3. Police called: Yes ☒ No ☐

4. Location of incident (including street address): 2207 Delano Drive, NE Atlanta 30317

5. Name of your insurance company: State Farm Policy No. 11-B3-7242-1

6. State what and how incident occurred: Source entered basement through shower and toilet drains. Source entered basement on these

\* Dates (1) 26 MAR 98 (2) 27 MAR 98 (3) 3 Apr 98  
(4) 15 Apr 98 (5) 30 Apr 98 (6) 7 MAY 98 (7) 12 June 98  
(8) 7 July 98

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: \_\_\_\_\_  
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Penelope Dowberry  
Signature of Claimant

Penelope Dowberry  
(Print Claimant's Name)

2207 Delano Drive NE  
(Address)

Atlanta GA 30317  
(City, State and Zip Code)

404-371-0763  
(Work Number) (Home Number)

## DAMAGES

1.)	Carpeting & Pading Large Room (Tile)	\$241.00 \$1,548.00
2.)	3 Seater Sofa (3 Pieces) Tile	\$1,548.00 \$128.15
3.)	3 Seater Sofa (3 Pieces)	\$1,377.00
4.)	4 Seater Sofa	\$1,200.00
5.)	2 Piece Sectional Sofa	\$500.00
6.)	59 Wolf Camera Photos (Black & White Photos, Posters)	\$4,000.00
7.)	36 Pair Women Shoes @ \$30.00	\$1,080.00
8.)	16 Men Pair @ \$35.00	\$560.00
9.)	Toys	\$300.00
10.)	5x5 Pillows 3x3 Pillows	\$150.00
11.)	Panelling & Baseboard Damages	\$500.00
12.)	Stereo	\$139.00
13.)	Dresser	\$175.00
14.)	T.V.	\$75.00 +
15.)	Books / Misc.	\$150.00
16.)	Bathroom Accessories	\$75.00
17.)	Bed Linen	\$150.00

18.) Door

\$350.00

19.) Leather Brief Case

\$125.00

\$12,923.15